

Message Text

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ACTION EA-12

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E.O. 11652: NA
TAGS: SHUM, RP
SUBJECT: AQUINO CASE: SUPREME COURT HEARING

REF: MANILA 19553

1. SUMMARY: SUPREME COURT BEGAN HEARING DECEMBER 14 ON MOTION FILED BY AQUINO'S MOTHER (SEE REFTTEL). HIGHLIGHT OF FOUR-HOUR SESSION WAS LONG STATEMENT BY AQUINO. HEARING WILL CONTINUE AFTERNOON OF DECEMBER 15. END SUMMARY.

2. ON DECEMBER 14, SUPREME COURT HEARD ORAL ARGUMENTS ON PETITION FILED BY AQUINO'S MOTHER FOR DISMISSAL OF CHARGES AGAINST HIM AND RESTRAINING ORDER TO PREVENT REOPENING OF HIS TRIAL BEFORE MILITARY COMMISSION NO 2. DEFENSE ATTORNEY ORDONEZ, IN RESPONSE TO QUESTION FROM CHIEF JUSTICE CASTRO, SAID AQUINO NOW WISHES TO BE CONSIDERED A PARTY TO HIS MOTHER'S PETITION AND WOULD BE BOUND BY DECISION OF THE COURT.

3. IN HIS ORAL ARGUMENT, ORDONEZ REVIEWED BASIS FOR SEVERAL PREVIOUS PETITIONS FILED WITH SUPREME COURT IN WHICH DEFENSE CONTENDED THAT AQUINO HAS BEEN DEPRIVED OF DUE PROCESS. HE THEN CONCENTRATED HIS ARGUMENTS ON WHAT TRANS-
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PIRED DURING FINAL DAY OF MILITARY TRIAL (NOVEMBER 26.). HE ARGUED THAT THE TRIBUNAL RUSHED TO JUDGMENT WITH "INDECENT HASTE" WHILE THREE DEFENSE MOTIONS WERE STILL PENDING AND WITHOUT AQUINO BEING ALLOWED TO MAKE FINAL STATEMENT. HE CONTENDED PRESIDENT MARCOS' ORDER TO REOPEN TRIAL CONSTITUTED "IMPERIOUS INTERFERENCE" AND WAS PARTICULARLY INAPPROPRIATE SINCE MARCOS HAD PREVIOUSLY DECLINED

TO COMMENT ON VERDICT ON GROUNDS CASE STILL SUB JUDICE. ORDONEZ ARGUED THE GOVERNMENT CANNOT LEAVE THE VERDICT "IN LIMBO" AS IT SEEMS TO HAVE DONE--EITHER THERE IS A JUDGMENT OR THERE IS NOT. HE CONCLUDED BY ENTREATING THE JUSTICES TO PREVENT THE MILITARY TRIBUNAL FROM CONTINUING TO DISREGARD THE EXISTENCE OF THE SUPREME COURT TO "LET THE FILIPINO PEOPLE KNOW THAT THE CONSTITUTION IS A DOCUMENT OF LAW."

4. QUEIRES FROM THE BENCH CENTERED AROUND ORDONEZ' CONTENTION THAT, ACCORDING TO MANUAL OF COURTS MARTIAL, IF THERE IS REHEARING IT MUST BE BEFORE A NEW TRIBUNAL. SEVERAL JUSTICES SEEMED TO THINK THAT MARCOS, AS COMMANDER-IN-CHIEF OF ARMED FORCES, HAS PREROGATIVE TO ORDER REOPENING AND THAT "RE-OPENING" IS DIFFERENT THAT "REHEARING." ORDONEZ ARGUED THERE IS NO MENTION OF THE WORD "RE-OPEN" IN MANUAL OF COURTS MARTIAL.

5. COURT THEN ALLOWED AQUINO TO READ STATEMENT. AQUINO SPOKE FORCEFULLY AND PLAINLY, SELDOM RESORTING TO RHETORICAL FLOURISH. HE REVIEWED THE CHARGES AGAINST HIM, CONTENDING THE GOVERNMENT PRESENTED NO REAL EVIDENCE TO PROVE ANY OF THEM. HE SAID HIS CASE IS "UNIQUE." IT IS BLATANTLY UNFAIR, HE ARGUED, THAT HE BE TRIED BY A MILITARY COURT "UNDER THE COMMAND CONTROL AND INFLUENCE" OF PRESIDENT MARCOS, HIS LONG-TIME POLITICAL RIVAL. MOREOVER, LIMITED OFFICIAL USE

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MARCOS PREJUDICED HIS CASE BY DECLARING HIM GUILTY ON NATIONAL TV. AQUINO SAID THE ONLY REMAINING OBSTACLE TO HIS EXECUTION IS "THE COLLECTIVE CONSCIOUSNESS OF THE COURT." REGARDLESS OF VERDICT, HE SAID, "RIGHT DEFEATED IS STRONGER THAN EVIL TRIUMPHANT."

6. SOLICITOR GENERAL ESTELITO MENDOZA ARGUED FOR THE GOVERNMENT. HE REVIEWED HISTORY OF MILITARY TRIBUNAL PROCEEDINGS AT LENGTH. HE ARGUED THAT AQUINO TIME AND TIME AGAIN WAS GIVEN CHANCE TO DEFEND HIMSELF BUT STEADFASTLY REFUSED. HE EXPRESSED DOUBT THAT AQUINO REALLY DESIRED TO MAKE A STATEMENT TO THE COURT ON NOVEMBER 25 AS HE CLAIMED. MENDOZA CONTENDED THAT MARCOS ACTED CORRECTLY IN ORDERING MILITARY TRIBUNAL NO 2 TO REOPEN THE CASE. HE POINTED OUT THAT THE COURT OF MILITARY APPEALS IS NOT YET ORGANIZED. HE SAID MARCOS DID NOT FEEL IT APPROPRIATE THAT THE ACCUSED SHOULD REMAIN IN "STATE OF ANXIETY" WHILE AWAITING ORGANIZATION OF REVIEW BODY (DEPUTY JUDGE ADVOCATE GENERAL TOLD EMBOFF RECENTLY THAT GOVERNMENT IS HAVING TROUBLE GETTING IT ORGANIZED, AND HAS FOUND ONLY ONE RETIRED SUPREME COURT JUSTICE WILLING TO SERVE ON THE NINE-MAN COURT.) THE PRESIDENT CONSEQUENTLY

EXERCISED HIS POWER AS COMMANDER-IN-CHIEF
TO ORDER THE CASE REOPENED SO THAT AQUINO WOULD HAVE CHANCE
TO PRESENT EVIDENCE OR READ STATEMENT. THIS REMEDY
MENDOZA ARGUED, SPECIFICALLY ADDRESSES THE COMPLAINT OF
THE DEFENDENT.

7. CONDUCT OF HEARING WAS ORDERLY AND DIGNIFIED. AQUINO
DISPLAYED NO SIGN OF EMOTION WHEN HE WAS LED INTO COURT
ROOM OR DURING LAWYERS' PRESENTATIONS. NEVERTHELESS
THE SESSION HAD THE AURA OF AN OPPOSITION POLITICAL
HAPPENING. MORE THAN ONE HOUR BEFORE THE HEARING BEGAN,
THE TIGHTLY GUARDED CORRIDORS LEADING TO THE SUPREME
COURT CHAMBER WERE CLOGGED WITH HUNDREDS OF ON LOOKERS
HOPING TO CATCH GLIMPSE OF AQUINO AS HE WAS BROUGHT TO
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THE COURTROOM. MORE THAN 150 PEOPLE, MOSTLY AQUINO
SYMPATHIZERS, PACKED THE CHAMBER ITSELF. A NUMBER OF
LEADING OPPOSITIONISTS, INCLUDING SALONGA, ROXAS
TANADA, AND RODRIGO, WERE ON HAND. MOST OF THE AQUINO
FAMILY ATTENDED. AQUINO'S CHILDREN, DRESSED IN T-SHIRTS
WITH THEIR FATHER'S PICTURE ON FRONT AND "NINOY IS MY
HERO" PRINTED ON BACK, PASSED OUT CANDY TO THE AUDIENCE
DURING RECESSES.

8. HEARINGS WILL RESUME AFTERNOON OF DECEMBER 15.

NEWSOM

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